

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

JASON RODERICK WINTERS

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:14-cv-222-HSO-RHW

CITY OF GULFPORT, *et al.*

DEFENDANTS

**ORDER ADOPTING MAGISTRATE JUDGE'S PROPOSED FINDINGS
OF FACT AND RECOMMENDATION, GRANTING
DEFENDANTS' MOTION TO DISMISS OR FOR SUMMARY
JUDGMENT, AND DISMISSING PLAINTIFF'S COMPLAINT**

This cause comes before the Court on the Proposed Findings of Fact and Recommendation [23] of United States Magistrate Judge Robert H. Walker, entered in this case on October 28, 2014. The Magistrate Judge reviewed the Motion [16] to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(6) or for Summary Judgment Pursuant to Federal Rule of Civil Procedure 56 filed by Defendants Mark E. Joseph and Greg Peleaz and joined in [19] by Defendant City of Gulfport. The Magistrate Judge determined that Plaintiff Jason Roderick Winters failed to state a claim upon which relief can be granted and recommended that the Motion be granted and that Plaintiff's claims be dismissed. *See* Proposed Findings of Fact and Recommendation at 4.

The Proposed Findings of Fact and Recommendation [23] was mailed to Plaintiff Jason Roderick Winters on October 28, 2014. Any objection to the Magistrate Judge's Proposed Findings of Fact and Recommendation [23] was due within fourteen (14) days of service. L.U. Civ. R. 72(a)(3). The Acknowledgment of Receipt [26] reflects that the Proposed Findings of Fact and Recommendation were

received on October 30, 2014. Plaintiff did not file an objection to the Proposed Findings of Fact and Recommendation [23], and the time to do so has passed. Where no party has objected to the Magistrate Judge's proposed findings of fact and recommendation, the Court need not conduct a de novo review of it. 28 U.S.C. § 636(b)(1) ("a judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). In such cases, the Court applies the "clearly erroneous, abuse of discretion and contrary to law" standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Having conducted the required review, the Court concludes that the Magistrate Judge's findings are not clearly erroneous, nor are they an abuse of discretion or contrary to law. For the foregoing reasons, the Court will adopt the Magistrate Judge's Proposed Findings of Fact and Recommendation [23] as the opinion of this Court. Defendants' Motion to Dismiss or for Summary Judgment will be granted because Plaintiff has failed to state a claim upon which relief can be granted, and this civil action will be dismissed.

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Proposed Findings of Fact and Recommendation [23] of United States Magistrate Judge Robert H. Walker, entered in this case on October 28, 2014, is adopted as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that, the Motion [16] to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(6) and/or for Summary

Judgment Pursuant to Federal Rule of Civil Procedure 56 filed by Defendants Mark E. Joseph and Greg Peleaz and joined in [19] by Defendant City of Gulfport, is **GRANTED**, and Plaintiff's Complaint is **DISMISSED**. A separate judgment in accordance with this Order will be entered, as required by Federal Rule of Civil Procedure 58.

SO ORDERED AND ADJUDGED, this the 19th day of November, 2014.

Halil Suleyman Ozerdem

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE